

REMARKS

This Amendment is filed in response to the Office Action issued 23 December 2004.

A Petition to Extend Time 37 C.F.R. § 1.136(a) for two (2) months, up to and including 23 May 2005, is enclosed.

An Information Disclosure Statement, with instructions to charge Deposit Account No. 13-2755 the appropriate fee as a large entity, is enclosed.

This specification was amended previously to explicitly recite additional trademarks and registered trademarks, via the paper entered by Applicants on 24 September 2004.

Claims 1-43 were cancelled in the Preliminary Amendment filed 24 September 2004. New claims 44-68 were entered, which recite subject matter elected by Applicants (original group II claims 10-13, 17-19 and 22-43) in response to a Restriction Requirement.

Claim 44-68 are currently pending. Claims 44-51 and 59-68 are cancelled, without prejudice. Applicants respectfully reserve the right to pursue presently non-claimed subject matter, including but not limited to the subject matter recited in claims 44-51 and 59-68, in one or more future continuing applications.

Claims 52-58 are currently amended to remove reference to "substantially supercoiled" plasmid.

Claim 52 is currently amended to recite ethanol as the non-reducing scavenger.

Claims 52, 53, 56 and 58 are currently amended to more particularly recite a (w/v) range for ethanol.

Claims 52-58 are currently amended to remove the term --about--.

Claims 54-58 are currently amended to add the term --plasmid--.

No new matter is added by amendment to claims 52-58.

Response to "Priority"

The Examiner takes the position that the above-identified application is a continuation-in-part to US application serial number 09/948,337, filed 7 September 2001, allegedly because "it was determined that applicants added new matter in their amendment to the claims filed 3/24/03, and therefore, the instant application, which retains those same amendments to the claims, is properly a Continuation-in-Part of parent application 09/948,337." Applicants respectfully disagree. The above-identified application was properly filed 30 October 2003 as a Rule 53(b) continuation application. All continuing data was properly claimed, as noted by instructions to amend the specification that accompanied the papers filed with this continuation application. Entry of the claims in question did not occur until entry of the paper mailed 24 September 2004. Therefore, the present application does not "retain" the claims in question, but instead entered them via preliminary amendment through the aforementioned paper. Applicants respectfully take the position that entry of new claims 44-68 is fully supported by the original specification as entered 30 October 2003. Regardless, Applicants note further that claims 44-51 and 59-68 are cancelled, rendering that portion of the argument moot. Applicants further respectfully take the position that currently amended claims 52-58 are fully supported by the original specification in question. To this end, Applicants respectfully request reconsideration and withdrawal of this position regarding priority.

Response to "Specification"

The Examiner has noted formal requirements regarding the use of trademarks in patent application. Applicants respectfully point to the amendments to the specification as part of a Preliminary Amendment, entered 24 September 2004, which addressed these original editorial oversights.

Rejection of Claims 44-68 Under 35 U.S.C. §112, Second Paragraph

- (a) Claims 44-68 stand rejected for use of the term "substantially supercoiled plasmid DNA;"
- (b) Claims 44-51 stand rejected for use of the term "up to 3%" when referring to a non-reducing agent; and,
- (c) Claims 59-68 stand rejected for allegedly reciting a "method step in a composition claim."

The Examiner takes the position that use of these terms is allegedly "indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." Applicants respectfully disagree. Regardless, Applicants overcome sections (b) and (c) of the rejection by cancellation of claims 44-51 and 59-68. The section (a) rejection is overcome by current amendment to claims 52-58, removing recitation of "substantially supercoiled" plasmid DNA. Reconsideration and withdrawal of all portions of this Section 112, 2nd rejection is respectfully requested.

Rejection of Claims 44-50 Under 35 U.S.C. §102(b), (e)

(a) Claims 44-49 stand rejected under 35 U.S.C. §102(b), allegedly "as being anticipated by Maniatis et al. (Molecular Cloning, A Laboratory Manual, Cold Spring Harbor Laboratory, 1982)." Applicants respectfully traverse this rejection by cancellation of claims 44-49.

(b) Claims 44-49 stand rejected under 35 U.S.C. §102(e), allegedly "as being anticipated by Michejda et al. (US Patent 5,672,593)." Applicants respectfully traverse this rejection by cancellation of claims 44-49.

(c) Claims 44-50 stand rejected under 35 U.S.C. §102(3), allegedly "as being anticipated by Niven et al. (US Patent No. 6,022,737)." Applicants respectfully traverse this rejection by cancellation of claims 44-50.

To this end, Applicants respectfully request withdrawal of these §102(b),(e) rejections.

Rejection of Claims 44-49 and 59-64 Under 35 U.S.C. §103(a)

Claims 44-49 and 59-64 stand rejected under 35 U.S.C. §103(a) "as being unpatentable over Maniatis et al (cited above) in view of Szoka et al (WO 96/40265) Ulmer et al. (Science, Vol. 259, pp 1745-1749, 1993), and Content et al. (US Patent 5,736,524)." Applicants respectfully traverse this rejection by cancellation of claims 44-49 and 59-64. In view of cancellation of the claims in question, Applicants respectfully request withdrawal of this §103(a) rejection.

Currently amended claims 52-58 more particularly point out and distinctly claim various formulations of the present invention. Applicants respectfully take the position that claims 52-58 are in condition for allowance. The Examiner is invited to contact the undersigned attorney if clarification is required on any aspect of this response, or if any of the claims are considered to require further amendment to be placed in condition for allowance after entry of this Amendment.

Respectfully submitted,



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